



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 20, 1998

Ms. Joni M. Vollman  
Assistant General Counsel  
Office of the District Attorney  
201 Fannin, Suite 200  
Houston, Texas 77002-1901

OR98-1990

Dear Ms. Vollman:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117783.

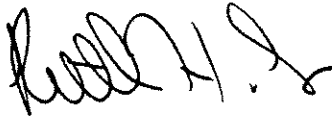
Harris County (the "county") received a request for records pertaining to two offenses involving a named individual. You assert that the records are protected from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. We note that when a governmental body seeks a decision from this office concerning records that it seeks to withhold under an exception to disclosure, the governmental body must provide to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(b). You did not, however, submit to this office a copy of the written request for information, nor did you submit copies of the information requested or representative samples of such information.

In accordance with 552.303(c) of the Government Code, this office notified you by facsimile on June 19, 1998, that you had failed to submit the information required by section 552.301(b). We requested that you provide a copy of the written request for information and also provide either a copy of the specific information at issue or a representative sample of the information to our office within seven days from the date of receipt of the notice. The notice further stated that, under section 552.303(e), failure to supply these documents would result in the legal presumption that the information at issue is presumed public. You did not provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information.

Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). We note that, based on your arguments, some of the information at issue may be confidential by law. Information that is confidential by law may not be released to the public. Gov't Code § 552.352 (distribution of confidential information may be criminal offense). The information at issue otherwise must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', is written over a horizontal line.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 117783

cc: Mr. Andrew A. Hammel  
Texas Defender Service  
412 Main, Suite 1150  
Houston, Texas 77002